

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE GOOGLE DIGITAL ADVERTISING
ANTITRUST LITIGATION

21-md-3010 (PKC)

THIS ORDER RELATES TO:

INFORM INC.,

Plaintiff,

23-cv-1530 (PKC)

-against-

ORDER

GOOGLE LLC, et al.,

Defendants.

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CASTEL, District Judge:

This action by Inform Inc (“Inform”) was transferred for inclusion in this MDL by the Judicial Panel on Multidistrict Litigation on February 23, 2023. The action was pending in the Northern District of Georgia and the Eleventh Circuit. Following a remand by the Eleventh Circuit and the issuance of the mandate, Inform filed its Notice of Potential Tag-Along. Promptly after the February 23 transfer to this MDL, Inform sought leave to amend its First Amended Complaint “to conform the complaint to Your Honor’s previous rulings on the various motions to dismiss, among other things.” (ECF 479.) Google opposes the application as untimely, a waste of time and futile. (ECF 499.)¹

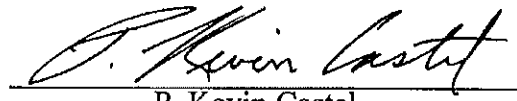
¹ Google’s futility argument is premised upon its assertion that Inform lacks standing. But the Eleventh Circuit ruled that Inform adequately alleged both Article III standing and antitrust standing in the First Amended Complaint. Inform Inc v Google LLC, et al., 21-13289 (11th Cir. Aug. 26, 2022) (Opinion a 13-17).

The Court will grant Inform leave to amend the First Amended Complaint provided it does so within 21 days of this Order. Inform has acted in a reasonably timely manner following remand by the Eleventh Circuit. Any defect in the pleading may be raised on a motion to dismiss. The Court accepts good faith representation that Inform intends to conform its pleading to the Court's rulings on the States' motion to dismiss; any new or additional theories of liability should be highlighted in a marked copy of the pleading also filed within 21 days.

Google may file a pre-motion letter in support of a motion to dismiss 21 days after the filing of the amended pleading and Inform shall respond to the pre-motion letter 7 days thereafter.

Discovery by or from Inform is stayed pending further Order of the Court. The parties may brief the issuance of a continued stay in the pre-motion letter and response thereto..

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
April 12, 2023